

## CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 2/28/2013

Action Requested By:  
Legal

Agenda Item Type  
Resolution

Subject Matter:

Mod. 15 to SDA TIF5 Series 2010-B

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 15, to the Supplemental Development Agreement TIF5 Series 2010-B to Annexation and Development Agreement between the City of Huntsville and LW Redstone Company, LLC.

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: \_\_\_\_\_

RESOLUTION NO. 13-\_\_\_\_\_

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 15 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 15 to Supplemental Development Agreement TIF5 Series 2010-B between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of February 28, 2013, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 28th day of February, 2013.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

APPROVED this the 28th day of February, 2013.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

STATE OF ALABAMA   )  
COUNTY OF MADISON   )

**MODIFICATION NO. 15 TO SUPPLEMENTAL DEVELOPMENT  
AGREEMENT TIF5 – SERIES 2010-B TO ANNEXATION AND  
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF  
HUNTSVILLE AND LW REDSTONE COMPANY, LLC, AS  
ADOPTED AND APPROVED BY RESOLUTION NO. 10-892  
ON OCTOBER 28TH, 2010 AND AS AMENDED BY  
MODIFICATIONS NO. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.**

**MODIFICATION No. 15**

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, (“Agreement”), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama (“City”) and L W REDSTONE COMPANY, LLC, a Delaware limited liability company (“Owner”), City and Owner enter into this Modification No. 15 to the Supplemental Development Agreement (SDA) TIF5 Series 2010-B, which was previously adopted and approved on October 28, 2010 and previously amended on May 12, 2011, June 23, 2011, July 14, August 11, August 25, 2011, September 22, 2011, December 15, 2011, January 26, 2012, March 22, 2012, May 24, 2012, June 14, 2012, September 13, 2012, December 6, 2012, and January 10, 2013 and hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$20,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B., ADD the following: “The amount of \$119,499.65 previously budgeted and funded for the contract with Building & Earth Sciences, Inc. for Construction Materials Testing Services for Redstone Gateway, Phase IA, Project No. 65-10-SP21, as adopted by Resolution No. 10-981 on December 2, 2010, and as previously amended, needs to be increased by \$163,325.00, from Account No. 05-6500-0811-2037 in order to fund Modification No. 3 to the contract. This Modification No. 3 is for the continuation of the geotechnical engineering and testing services on concrete and soils during the construction of Redstone Gateway, Phases 1A and 1F, and adds an additional three hundred and three (303) calendar days to the contract completion date. The revised total contract amount will be \$282,824.65.”
2. Within Section B., ADD the following: “The contract with Rotolo Consultants, Inc. for Redstone Gateway, Package 1G-Landscape, Irrigation and hardscape, Project No. 65-11-SP24, as adopted by Resolution No. 11-573 and as subsequently amended, needs to be decreased by the amount of \$65,062.97 Account No. 05-6500-0811-2022, by Change Order No. 2 to the contract, from \$1,454,986.02 to a revised total contract amount of \$1,389,923.05 due to the deduction of landscaping requirements on the south side of the main entry, revisions to landscaping at the TVA pole removal, and the deduction of sidewalks at RG 1200 and along Rideout Road near RG 1100.”
3. Within Section B. ADD the following: “The amount of \$235,000.00 (Account No. 05-6500-0811-2038 is budgeted and funded for the award of a Not To Exceed (NTE) Contract Amount of \$235,000.00 with Garver, L.L.C. for Engineering Construction Administration Services for Redstone Gateway Package I and Package J, Project No. 65-13-SP20.”

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: \_\_\_\_\_

4. Within Section B. OWNER IMPROVEMENTS, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED," the amount of \$566,697.86 allocated and budgeted for undefined engineering and construction costs is hereby decreased by a total of \$333,262.03 to \$233,435.83.

All other terms and conditions of the SDA TIF5-SERIES 2010-B, as previously modified, remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

("OWNER")

L W REDSTONE COMPANY, LLC

Dated: \_\_\_\_\_, 2013

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MARYLAND       )  
COUNTY OF HOWARD       )

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that \_\_\_\_\_, as \_\_\_\_\_, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

("CITY")

THE CITY OF HUNTSVILLE, ALABAMA,  
A municipal corporation

Dated: \_\_\_\_\_, 2013

By: \_\_\_\_\_

Tommy Battle

Its: Mayor

ATTEST:

\_\_\_\_\_  
Charles E. Hagood  
Clerk-Treasurer

STATE OF ALABAMA       )  
COUNTY OF MADISON     )

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

# ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 2/28/2013

Department Contact: Cissy Cates

Phone # 427-5026

Contract or Agreement: Mod. 15 to SDA TIF5 Series 2010-B

Document Name: Modification No. 15 to the SDA LW Redstone, TIF5 Series 2010-B

City Obligation Amount: \_\_\_\_\_

Total Project Budget: \_\_\_\_\_

Uncommitted Account Balance: \_\_\_\_\_

Account Number: \_\_\_\_\_

## Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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## Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name: _____
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Department	Signature	Date
1) Originating	<i>Mary C Cates</i>	<i>2/26/13</i>
2) Legal	<i>Mary C Cates</i>	<i>2/26/13</i>
3) Finance	<i>[Signature]</i>	<i>2/26/13</i>
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		